

## **20 KAR 1:080. Reports to be filed by holders of unclaimed property.**

RELATES TO: KRS 393.110(1), 393.130

STATUTORY AUTHORITY: KRS 393.280(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 393.280(4) allows the State Treasurer to promulgate administrative regulations and any reasonable and necessary rules for the enforcement of KRS Chapter 393. KRS 393.110(1) requires the holder of unclaimed property to submit annual reports to the Department of the Treasury concerning the property. This administrative regulation establishes the reporting requirements for a holder of unclaimed property.

Section 1. Reports Filed by a Holder of Unclaimed Property. A holder of unclaimed property shall annually file, in accordance with KRS 393.110, a completed, Unclaimed Property Report/Remit Form with the Department of the Treasury no later than the close of business on November 1 of each year.

(1) A holder of property presumed abandoned shall make an annual report to the Department of the Treasury concerning the property. The annual report shall cover the twelve (12) months ending on June 30 of that year. Holders are required to submit their report by diskette or compact disc in the format required by the department for ten (10) or more properties. All property so reported shall be turned over simultaneously with the report by November 1 to the Department of the Treasury. This reporting requirement applies to all properties, with the exception of travelers' checks and money orders, and shall be verified and shall include:

(a) The name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of \$100 or more presumed abandoned under this chapter and in the case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his or her last known address according to the records of the life insurance corporation;

(b) Identifying data of the property owner, including, Social Security number, date of birth, policy number, check number, name, and address of listed beneficiaries, etc.;

(c) Description of the property, including, physical description, property type codes, and the amount appearing from the records to be due, except items of value of \$100 or less. The items of value of \$100 or less may be reported in aggregate.

(d) The date when the property became payable, demandable, or returnable, and the date of the last known transaction with the owner with respect to the property if readily available.

(2) If the fair cash value of the property is more than \$100, the holder of property presumed abandoned shall send written notice to the apparent owner, not more than 120 days or less than sixty (60) days before filing the report, stating that the holder is in possession of the property subject to this section. The holder shall not be required to mail a notice to any apparent owner where the fair cash value of the property is \$100 or less. The notice shall contain:

(a) The statement to the owner that properties are being held to which the addressee appears entitled;

(b) The name and address of the person holding the property and any necessary information regarding a change of name and address of the holder; and

(c) A statement, that if satisfactory proof of claim is not presented by the owner to the holder by the date specified, the property shall be placed in the custody of the department to whom all further claims shall be directed.

(3)(a) A person shall turn over to the department all property reportable as required by KRS

Chapter 393 and this administrative regulation to the Department by November 1, unless:

1. The person making the report or the owner of the property shall certify to the department that any or all of the statutory conditions necessary to create a presumption of abandonment no longer exists or never did exist; or

2. The person is able to provide documentation of facts or circumstances that will rebut the presumption of abandonment;

(b) If either of these conditions are met, then the person reporting or holding the property shall not be required to turn the property over to the department except on order of court.

(4) The holder of abandoned property shall maintain its records for a period of five (5) years from the date of its report for items reported in the aggregate.

(5) If the owner of the property reported in the aggregate makes a valid claim within five (5) years, the holder shall provide the owner with account data necessary for the department to identify the account from the aggregate amount.

(6) The annual reports shall be retained by the department for a period of five (5) years.

(7)(a) The department shall notify all apparent owners of the unclaimed property in accordance with this section by means of posting on the department's Web site.

b. The department may use any of the following to provide additional notice to the apparent owners:

1. Publication in a newspaper of general circulation:

a. In the area of the state in which the last known address of a person to be named in the notice is located; or

b. If the address is unknown, in the area in which the holder has its principal place of business in the state; or

2. Individual contact by regular or electronic mail, or by telephone, if the department has current contact information on file;

(c) shall, notwithstanding KRS 424.180 and 424.190, provide, on an annual basis, notice or published advertisement of property transferred to it. Any procedures prescribed by the department in accordance with this section shall employ the most cost-effective methods available for the submission of reports to the department and the notice or advertisement of property transferred to the department. The cost of the publication shall be paid by the state.

(d) The advertisement shall be published as required on or before October 1 following the year when the report was received, and the publishing shall be paid constructive notice to all parties.

(8) If a person files an action in court claiming any property which has been reported, or is to be reported, under the provisions of this chapter, the person reporting or holding the property shall be under no duty, while the action is pending, to turn the property over to the department, but shall have a duty of notifying the department of the pendency of the action.

(9) The person reporting or holding the property or any claimant of it shall always have the right to a judicial determination of his or her rights under this chapter, and nothing in this chapter shall be construed otherwise. The Commonwealth may institute an action to recover the property presumed abandoned, whether it has been reported or not, and may include in one (1) petition all property within the jurisdiction of the court in which the action is brought, if the property of different persons is set out in separate paragraphs.

Section 2. Reports on Property Held in an Interest Bearing Account. If the holder of unclaimed property is required to place that property in an interest bearing account, pursuant to KRS 393.130, the holder shall submit to the Department of the Treasury the following reports: A statement on the interest-bearing account holding unclaimed property. The statement shall:

- (1) Be the kind normally issued on an interest-bearing account;
- (2) Be filed with the Department of the Treasury on an annual basis according to the holder's normal course of business; and
- (3) Include the value of the unclaimed property and the amount of the interest paid on the account.

Section 3. Reports on an Amount Paid Out of an Account Holding Unclaimed Property. (1) A holder of an account holding unclaimed property shall file a report within ten (10) business days of paying an amount out of the account.

- (2) The report shall include:
  - (a) The name, Social Security number, and the address of the property owner;
  - (b) The amount paid;
  - (c) The portion of the amount that represents interest paid and the portion that represents the original amount of unclaimed property;
  - (d) The date the property was presumed abandoned;
  - (e) Proof of payment;
  - (f) An itemization of each fee or expense charged against the account; and
  - (g) An affidavit indicating:
    1. What specific proof was used in determining that the person that received the amount or payment was the rightful claimant; and
    2. That the procedures for paying a claim for unclaimed property as established in 20 KAR 1:040 were followed.
- (3) The report shall be filed at the Department of the Treasury.

Section 4. Incorporation by Reference. (1) "Unclaimed Property Report/Remit Form", 2006 edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of the Treasury, 1050 U.S. Hwy. 127 South, Suite 100, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:00 p.m. (26 Ky.R. 491; Am. 989; eff. 11-15-99; 30 Ky.R. 1582; 2014; eff. 3-18-2004; 33 Ky.R. 190; 718; eff. 10-6-06.)